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Note verbale dated 29 October 2004 from the Permanent Mission of Liechtenstein to the United Nations addressed to the Chairman of the Committee

The Permanent Mission of the Principality of Liechtenstein to the United Nations presents its compliments to the Chairman of the Committee, and has the honour to transmit the report required in accordance with operative paragraph 4 of the resolution (see annex).

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Annex to the note verbale dated 29 October 2004 from the Permanent Mission of Liechtenstein to the United Nations addressed to the Chairman of the Committee

Report of the Principality of Liechtenstein to the Security Council Committee established pursuant to Security Council resolution 1540 (2004)

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1. INTRODUCTION

The increasing threat of terrorism has added greater urgency to questions of proliferation. The possibility of biological, chemical or nuclear attacks can no longer be excluded and has thus become a major international concern. Liechtenstein is of the opinion that the existing regime of multilateral treaties must constitute the basis for work in the area of non-proliferation. Full implementation, universal acceptance and, where necessary, strengthening of the existing instruments, in particular in the field of verification and monitoring are indispensable elements of the long-term efforts to work towards the elimination of weapons of mass destruction.

Non-proliferation, arms control and disarmament are complementary elements of the overall comprehensive efforts the international community must undertake to effectively tackle the threat posed by weapons of mass destruction.

2. PART I: GENERAL CONTRIBUTION OF LIECHTENSTEIN TO THE FIGHT AGAINST THE PROLIFERATION OF NUCLEAR, CHEMICAL AND BIOLOGICAL WEAPONS AS WELL AS THEIR MEANS OF DELIVERY

2.1 International Treaties and Agreements

Liechtenstein is a party to the following treaties and conventions relating to the non-proliferation of nuclear, chemical and biological weapons:

- Treaty on the Non-Proliferation of Nuclear Weapons of 1 July 1968;
- Agreement for the Application of Safeguards in Connection with the Treaty on the Non-Proliferation of Nuclear Weapons of 6 September 1978;
- Treaty on the Prohibition of the Emplacement of Nuclear Weapons and other Weapons of Mass Destruction on the Sea-bed and the Ocean Floor and in the Subsoil thereof of 11 February 1971;
- Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction of 10 April 1972;
- Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction of 13 January 1993;
- Comprehensive Test Ban Treaty of 10 September 1996.

Furthermore, Liechtenstein is a subscribing State to the Hague Code of Conduct against Ballistic Missile Proliferation (HCOC).

2.2 General contribution to the fight against terrorism

Terrorism in all its forms and manifestations has consistently been condemned by Liechtenstein, regardless of the reasons that are invoked to justify it. Perpetrators of terrorist acts must be brought to justice, while addressing the root causes of terrorism is an important element in the prevention of terrorism. Liechtenstein is committed to effective inter-national conventions relating to the fight against terrorism. It has ratified all 12 United Nations conventions relating to the fight against terrorism. In order to fully implement the UN Convention for the Suppression of the Financing of Terrorism, a special legislative

package was adopted in 2003, resulting in amendments to the Criminal Code, the Code of Criminal Procedure and due diligence legislation.

Liechtenstein fully supports the work of the Counter-Terrorism Committee (CTC) established pursuant to SC resolution 1373 (2001) and is engaged in an ongoing dialogue with the CTC on the measures taken in the global fight against terrorism. To this end, it submitted several reports (2001, 2002, 2003, 2004) to the CTC, documenting the measures it has taken to combat in particular the financing of terrorism. Liechtenstein also cooperates with the Al-Qaida and Taliban Sanctions Committee established pursuant to SC resolution 1267 (1999).

2.3 National Legislation

On 23 March 1923 Switzerland and the Principality of Liechtenstein concluded a Customs Union Agreement under which the national territories of Switzerland and the Principality of Liechtenstein were brought together to form a common customs area. For this reason a great number of Swiss laws are applicable in Liechtenstein. The application of these laws in Liechtenstein is limited to regulations concerning import, export or transit through the combined Swiss/Liechtenstein customs territory.

A list of Liechtenstein laws as well as Swiss laws applicable in Liechtenstein relevant for the implementation of resolution 1540 can be found in the annex.

3. PART II: IMPLEMENTATION OF SECURITY COUNCIL RESOLUTION 1540 (2004)

3.1 Paragraph 1

Support of non-State actors that attempt to develop, acquire, manufacture, possess, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery

Liechtenstein does not provide any form of support to non-State actors that attempt to develop, acquire, manufacture, possess, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery. Such support would be contrary to the Liechtenstein legislation, the international obligations Liechtenstein has entered into and to the policy it pursues at the international level.

3.2 Paragraph 2

Appropriate effective laws which prohibit any non-State actor to manufacture, acquire, possess, develop, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery, in particular for terrorist purposes, as well as attempts to engage in any of the foregoing activities, participate in them as an accomplice, assist or finance them

Under article 7 of the Swiss Federal Law on War Material the development, production, indirect transfer, acquisition, import, export, transit and stockpiling of nuclear, biological and chemical weapons is forbidden, as well as aiding and abetting. This article is also applicable to offences committed abroad if they are in violation of rules of international law by which Switzerland is bound and if the offender is of Swiss nationality or domiciled in Switzerland. The same applies with regard to offenders of Liechtenstein nationality or offenders who are domiciled in Liechtenstein. According to article 34 violations of article 7

shall be punished with imprisonment up to 10 years and fines up to 5 million Swiss Francs. It is also punishable to attempt to engage in any of the mentioned activities or to participate in them.

The Convention for the Suppression of the Financing of Terrorism specifies that even attempted financing of terrorism within the meaning of the Convention shall be criminalized and that the punishability of financing of terrorism shall not be made dependent on the actual use of the financial means for perpetrating one of the named criminal acts. Article 278d of the Liechtenstein Criminal Code serves as catch-all clause for this purpose. The provision and collection of assets for the purpose of perpetrating a criminal act listed in the individual subparagraphs is punishable. Assets include in particular legally relevant papers and documents (including electronic and digital) substantiating the right to such assets or rights pertaining to such items. Indirect intent is sufficient for commission of the act as is the intent to use the assets only partially for the illegal purpose.

3.3 Paragraph 3

Sub-paragraph a) and b)

Appropriate effective measures to account for and secure nuclear, chemical or biological weapons, their means of delivery, and related materials in production, use storage or transport and physical protection measures

Liechtenstein does not maintain armed forces and has never developed, produced, acquired, possessed or stockpiled nuclear, chemical or biological weapons and their means of delivery.

Enterprises and institutions working with nuclear, chemical or biological material are subject to the reporting obligations and inspections provided for in the international instruments Liechtenstein is a party to.

Sub-paragraph c)

Appropriate effective border controls and law enforcement efforts to detect, deter, prevent and combat, including through international cooperation when necessary, the illicit trafficking and brokering in such items in accordance with their national legal authorities and legislation and consistent with international law

The Law on Sanctions on Trade with Foreign States allows to limit or inhibit trade with foreign States in order to fulfil international obligations by which Liechtenstein is bound or in order to prevent a disturbance of peace. On the basis of this law that the Government has issued the Ordinance on the Brokerage of War Material. Brokerage as defined in the Ordinance covers establishing the essential conditions for the conclusion of agreements concerning the manufacture, tender, procurement or transfer of weapons, the transfer of intangible goods including know-how, or the granting of rights thereto, insofar as these relate to war material, and the conclusion of such contracts if the service concerned is to be provided by third parties. Article 7 forbids brokerage of nuclear, biological or chemical weapons as well as aiding and abetting the aforementioned actions. This article is also applicable to offences committed abroad if they violate rules of international law by which Liechtenstein is bound and if the offender is of

Liechtenstein nationality or domiciled in Liechtenstein. Sanctions consist of fines up to one million Swiss Francs. The competent supervisory organ is the Liechtenstein Police.

Regarding law enforcement outside the scope the Ordinance on the Brokerage of War Materials, reference is made again to the customs union with Switzerland. The customs and border controls are conducted by Swiss authorities in accordance with Swiss law.

Sub-paragraph d)

Appropriate effective national export and trans-shipment controls over nuclear, chemical or biological weapons, their means of delivery, and related materials, including appropriate laws and regulations to control export, transit, trans-shipment and re-export and controls on providing funds and services related to such export and trans-shipment such as financing, and transporting that would contribute to proliferation, as well as establishing end-user controls; and establishing and enforcing appropriate criminal or civil penalties for violations of such export control laws and regulations

Export:
Export, import and transit of goods are covered by the Customs Treaty and are thus subject to Swiss law. Switzerland maintains strict and efficient export controls on dual-use goods which might be used in weapons of mass destruction programs and/or conventional weapons programs. The legal basis is the Law on the Control of Goods Usable for Civilian and Military Purposes and Specific Military Goods which is complemented by the Ordinance concerning the Export, Import and Transit of Dual-Use Goods and Specific Military Goods and the Ordinance on the Control of Chemicals with Civilian and Military Use. The law and its ordinances require exporters to apply for an export permit for certain sensitive goods which are listed in the annexes of the ordinances. The competent authority, the Swiss State Secretariat for Economic Affairs (seco), denies such a permit if the activity applied for violates international agreements, non-binding international control measures or embargoes. A permit is also denied if there is reason to assume that the activity applied for would support terrorist groups or organized crime. The Ordinance concerning the Export, Import and Transit of Dual-Use Goods and Specific Military Goods further specifies that a permit shall be denied if there is reason to assume that the goods in question:
a) are to be used for the development, production or use of biological or chemical weapons;
b) serve for the development, production or use of nuclear weapons or of unmanned missiles for the delivery of NBC weapons or the proliferation of such weapons;
c) contribute to the conventional armaments of a State which through its behaviour endangers regional or global security.

Furthermore, the Ordinance concerning the Export, Import and Transit of Dual-Use Goods and Specific Military Goods contains a catch-all clause. Any planned exports not subject to a permit requirement must be reported to the seco if the exporter knows or has been informed by the authorities that the goods are or could be intended for a program for weapons of mass destruction or their means of delivery.

Individuals or legal entities who apply for a permit or have received a permit have to provide all information to the authorities and submit documentation necessary for a comprehensive evaluation or control. The requested documentation includes company profiles, confirmation of orders, sales contracts or customer bills, exporter's end-use statements, import certificates of the country of destination and

consignee's end-use statements. Article 21 of the Ordinance provides for mandatory record-keeping for a period of five years.

Controls are carried out by the Swiss State Secretariat for Economic Affairs (seco). It is authorized to enter the business premises of persons required to provide information during regular office hours without prior announcement, to make observations and to access pertinent documents.

Infringements against legislation governing goods usable for civilian and military purposes and specific military goods are punishable by imprisonment or fines up to 1 million Swiss Francs, or in severe cases by imprisonment of up to 10 years and fines up to 5 million Swiss Francs. The authorities may also revoke permits at any time if the relevant conditions are no longer met.

Transit:

Dual-use goods may not be transported through the combined Liechtenstein/Swiss customs territory if the shipment is not proven to be in accordance with the relevant regulations of the country of origin. If there is reason to believe that the transit violates international control measures supported by Switzerland seco prohibits the transit.

Financing:

The Liechtenstein Due Diligence Act is an administrative law that subjects financial institutions to a broad spectrum of obligations. First, it requires financial intermediaries to engage in a complete verification of a business relationship upon its initiation (article 4: Identification of the contracting party; article 5: Determination of the beneficial owner; article 10: Establishment of the client profile etc.) and then to verify every single transaction in the ongoing business relationship. This includes in particular the obligation to check individual transactions with the established client profile. Any suspicious transactions have to be reported to the Financial Intelligence Unit (FIU). Assets related to the report are automatically frozen for up to 10 working days.

3.4 Paragraph 6

Effective national control lists

As mentioned in 3.3 subparagraph d), export controls of strategically sensitive goods are subject to Swiss legislation. Switzerland is a party to all export control regimes, namely the Zangger Committee, the Australia Group, the Missile Technology Control Regime, the Nuclear Suppliers Group and the Wassenaar Arrangement and has implemented the export guidelines as well as the control lists established by these groups. The corresponding regulations and lists are to be found in the Swiss Federal Law on the Control of Goods Usable for Civilian and Military Purposes and Specific Military Goods and its accompanying ordinance, which are also applicable in Liechtenstein.

3.5 Paragraph 7

Assistance to States lacking the legal and regulatory infrastructure, implementation experience and/or resources for fulfilling the above provisions

Liechtenstein is willing to assist other States through capacity building, particularly in areas where it has relevant experience. Liechtenstein is proud to have thoroughly modernized its legislation relating in particular to the suppression of the financing of terrorism and money laundering. Various international monitoring mechanisms have confirmed the success of these legal and administrative measures. In recent years, Liechtenstein has established new authorities tackling these issues, such as a Due Diligence Unit and a Financial Intelligence Unit. On 1 January 2005 the Financial Market Supervisory Authority (FMSA) will begin operations. The FMSA will encompass the supervisory tasks currently assumed by the Government, the Financial Services Authority, the Office of Economic Affairs and the Due Diligence Unit. It will be independent of the Government and the supervised financial market actors. The completion and success of these efforts enable Liechtenstein to contribute to capacity building on other States. In its Fourth Report to the Counter-Terrorism Committee (S/2004/254), Liechtenstein has outlined relevant assistance capacities.

3.6 Paragraph 8

Sub-paragraph a)

Promote the universal adoption and full implementation, and, where necessary, strengthening of multilateral treaties to which they are parties, whose aim is to prevent the proliferation of nuclear, biological or chemical weapons

Sub-paragraph b)

Adopt national rules and regulations, where it has not yet been done, to ensure compliance with their commitments under the key multilateral non-proliferation treaties

With respect to the implementation of international treaties, Liechtenstein abides by the principle that treaty obligations should only be entered into if they can be complied with. After entry into force, a ratified treaty becomes directly applicable under national law provided that its provisions are specific enough.

Sub-paragraph c)

Renew and fulfil their commitment to multilateral cooperation, in particular within the framework of the International Atomic Energy Agency, the Organization for the Prohibition of Chemical Weapons and the Biological and Toxin Weapons Convention, as important means of pursuing and achieving their common objectives in the area of non-proliferation and of promoting international cooperation for peaceful purposes

Liechtenstein has been a member of the International Atomic Energy Agency since 1968. In 1978 it concluded a safeguards agreement to the NPT with IAEA. Preparations for the conclusion of an additional protocol to the safeguards agreement are currently underway.

Liechtenstein ratified the Biological Weapons Convention and the Chemical Weapons Convention in 1991 and 1999 respectively. It supports the above mentioned organizations and conventions by paying its assessed contributions fully and on time. Furthermore it submits periodic national reports where requested.

Sub-paragraph d)

Develop appropriate ways to work with and inform industry and the public regarding their obligations under such laws

All relevant laws and international agreements are considered by Parliament and must be published in the Liechtenstein Legal Gazette (Landesgesetzblatt, LGBl.). Their entry into force is announced in the national newspapers. The complete text may either be obtained at the Government Chancellery or viewed on the Internet.

3.7 Paragraph 9

Promote dialogue and cooperation on non-proliferation so as to address the threat posed by proliferation of nuclear, chemical and biological weapons, and their means of delivery

3.8 Paragraph 10

Cooperative action to prevent illicit trafficking in nuclear, chemical or biological weapons, their means of delivery, and related materials

In the framework of strengthened regional cooperation, Liechtenstein has concluded a treaty with its neighbouring countries Switzerland and Austria which entered into force on 1 July 2001 (LGBl. 2002 No. 122). The objective of the treaty is to cooperate regarding mutual security interests, to further develop close cooperation among police and border police, and to counter transboundary threats and international crime effectively by means of a cooperative security system.

4. FURTHER INFORMATION

The full text of relevant legislation can be submitted to the Committee upon request. Liechtenstein legislation can be found at www.gesetze.li (German version only), Swiss legislation at www.admin.ch (German, French and Italian version). For more information on Liechtenstein's contribution to the fight against terrorism, please refer to the reports submitted to the Counter-Terrorism Committee. These reports can be accessed at www.un.org/Docs/sc/committees/1373/submitted_reports.html

5. ANNEX

Laws relevant for the implementation of resolution 1540 (2004) in Liechtenstein:

- **Swiss Federal Law on the Enforcement of International Sanctions of 22 March 2002**
- **Swiss Federal Law on War Material of 13 December 1996**
- **Ordinance on War Material of 25 February 1998**
- **Swiss Federal Law on the Control of Goods Usable for Civilian and Military Purposes and Specific Military Goods of 13 December 1996**
- **Ordinance on the Export, Import and Transit of Goods Usable for Civilian and Military Purposes as well as Specific Military Goods of 25 June 1997**
- **Ordinance on the Control of Chemicals Usable for Civilian and Military Purposes and the Ordinance of the EVD**
- **Agreement between Liechtenstein and Switzerland concerning the Execution of the Convention on Chemical Weapons of 1993 (published in LGBl. 2000 No. 292)**
- **Swiss Federal Law on the Control the Communicable Human Diseases of 18 December 1970**
- **Ordinance on the Notification of Communicable Human Diseases of 13 January 1999**
- **Swiss Federal Law on the Control of Animal Epidemics of 1 July 1966**
- **Ordinance on the Control of Animal Epidemics of 27 June 1995**
- **Swiss Federal Law on the Agriculture of 29 April 1998**
- **Ordinance on Plant Protection of 28 February 2001**
- **Swiss Federal Law on the Peaceful Usage of Nuclear Power of 23 December 1959**
- **Ordinance on the Definitions and the License on the Field of Nuclear Power of 18 January 1984**
- **Swiss Federal Law on Radiation Protection of 22 March 1991**
- **Ordinance on Radiation Protection of 22 June 1994**
- **Law on Sanctions on Trade with Foreign States of 8 May 1991 (published in LGBl. 1991 No. 41)**
- **Ordinance on the Procurement of War Material of 9 September 1999 (published in LGBl. 1999 No. 185)**
- **Criminal Code of 24 June 1987 (published in LGBl. 2003 No. 236)**
- **Due Diligence Act of 22 May 1996 (published in LGBl. 1996 No.16)**